



## Office of the Attorney General

State of Texas

August 12, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Ira Greenspan  
Assistant Attorney General  
Medicaid Fraud Control Unit  
Office of the Attorney General  
3000 South Interstate 35, Suite 200  
Austin, Texas 78704

OR92-481

Dear Mr. Greenspan:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15631.

You have received a request for information relating to an investigation of a certain nursing home conducted by the Medicaid Fraud Control Unit ("MFCU") of the Office of the Attorney General. Specifically, the requestor seeks "any and all records, notes, transcripts, drawings, etc. pertaining to the Attorney General's Office's investigation into the case." You have submitted to us for review the MFCU case file which includes, *inter alia*, records of the MFCU's criminal investigation and of a Texas Department of Health investigation. You claim that this information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(8), and 3(a)(11) of the Open Records Act.

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 242.127 of the Health and Safety Code provides:

A report, record, or working paper used or developed in an investigation made under this subchapter [Subchapter E: Reports of Abuse and Neglect] is confidential and may be disclosed only for purposes consistent with the rules adopted by the board or the designated agency.

Health and Safety Code § 242.127; *see also* 25 T.A.C. § 145.88(i). You advise us that the MFCU case file was developed as part of an investigation into the alleged abuse of certain patients conducted pursuant to subchapter E of chapter 242. Pursuant to several written agreements, the Office of the Attorney General and the Department of Health exchange information and coordinate their investigations relating to allegations of abuse and neglect in nursing homes. Because of the close coordination between the Office of the Attorney General and the Department of Health and the constant exchange of information between the two agencies, we conclude that information developed by the Office of the Attorney General in an investigation of allegations of abuse and neglect in nursing homes is afforded the protection granted in section 242.127 of the Health and Safety Code. Therefore, we conclude that section 3(a)(1) excepts the requested information in its entirety from required public disclosure. As we resolve this matter under section 3(a)(1), we need not address the applicability of sections 3(a)(3), 3(a)(8) and 3(a)(11) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-481.

Yours very truly,



Rick Gilpin  
Assistant Attorney General  
Opinion Committee

RG/GCK/lmm

Ref.: ID# 15631  
ID# 15727

cc: Mr. K. Michael Mayes  
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